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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

HYNIX SEMICONDUCTOR INC., et al.,

Plaintiffs,

v.

RAMBUS INC.,

Defendant.

CASE NO. CV 00-20905 RMW

**DECLARATION OF DAVID C. YANG IN  
 SUPPORT OF RAMBUS INC.'S TRIAL  
 BRIEF PRECLUDING TESTIMONY FROM  
 JOE MACRI ON CERTAIN MATTERS**

Judge: Hon. Ronald M. Whyte  
 Location: Courtroom 1, 5th Floor  
 Trial Date: January 29, 2008

1 RAMBUS INC.,

2 Plaintiff,

3 v.

4 HYNIX SEMICONDUCTOR INC., et al.,

5 Defendants.

CASE NO. C 05-00334 RMW

6  
7 RAMBUS INC.,

8 Plaintiff,

9 v.

10 MICRON TECHNOLOGY INC. and  
11 MICRON SEMICONDUCTOR  
12 PRODUCTS, INC.,

13 Defendants.

CASE NO. C 06-00244 RMW

**DECLARATION OF DAVID C. YANG**

I, David C. Yang, hereby declare:

1. I am an attorney with Munger, Tolles & Olson LLP, counsel of record for Plaintiff and Counterclaim Defendant Rambus Inc. ("Rambus") in the above-entitled action. I am licensed in the State of California and admitted to practice before this Court. I make this declaration based on my personal knowledge and, if called upon as a witness, I could and would testify competently as to the matters set forth below.

2. Rambus is filing concurrently herewith a Trial Brief Precluding Testimony From Joe Macri On Certain Matters.

3. Attached hereto as Exhibit A is a true and correct copy of the Manufacturers' Joint Witness Disclosure served September 5, 2007.

4. Attached hereto as Exhibit B are a true and correct copy of Manufacturers' Demonstrative MD272 and a true and correct copy of Manufacturers' Demonstrative MD273.

5. Attached hereto as Exhibit C is a true and correct copy of excerpts of the June 9, 2003 Federal Trade Commission hearing transcript from *In re Rambus*, FTC Docket No. 9302.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on February 15, 2008 in San Jose, California.

/s/ David C. Yang  
David C. Yang

# **EXHIBIT A**

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 HYNIX SEMICONDUCTOR U.K. LTD., and  
 HYNIX SEMICONDUCTOR DEUTSCHLAND GmbH

**UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION**

HYNIX SEMICONDUCTOR INC.,  
 HYNIX SEMICONDUCTOR AMERICA  
 INC., HYNIX SEMICONDUCTOR U.K.  
 LTD., and HYNIX SEMICONDUCTOR  
 DEUTSCHLAND GmbH,  
 Plaintiffs,  
 v.  
 RAMBUS, INC.,  
 Defendant.

Case No. CV 00-20905 RMW

**MANUFACTURERS' JOINT WITNESS  
 DISCLOSURE PURSUANT TO THE  
 COURT'S AUGUST 30, 2007 ORDER**

1 RAMBUS INC.,  
 2 Plaintiff,  
 3 v.

4 HYNIX SEMICONDUCTOR INC., HYNIX  
 5 SEMICONDUCTOR AMERICA INC.,  
 6 HYNIX SEMICONDUCTOR  
 7 MANUFACTURING AMERICA INC.

8 SAMSUNG ELECTRONICS CO., LTD.,  
 9 SAMSUNG ELECTRONICS AMERICA,  
 10 INC., SAMSUNG SEMICONDUCTOR, INC.,  
 11 SAMSUNG AUSTIN SEMICONDUCTOR,  
 12 L.P.,

13 NANYA TECHNOLOGY CORPORATION,  
 14 NANYA TECHNOLOGY CORPORATION  
 15 U.S.A.,

16 INOTERA MEMORIES, INC.

17 Defendants.

Case No.: C05 00334 RMW

18 RAMBUS INC.,

19 Plaintiff,

20 v.

21 SAMSUNG ELECTRONICS CO., LTD.,  
 22 SAMSUNG ELECTRONICS AMERICA,  
 23 INC., SAMSUNG SEMICONDUCTOR, INC.,  
 24 SAMSUNG AUSTIN SEMICONDUCTOR,  
 25 L.P.,

26 Defendants.

CASE NO. C 05-02298 RMW

27 RAMBUS INC.,

28 Plaintiff,

v.

MICRON TECHNOLOGY, INC., and  
 MICRON SEMICONDUCTOR PRODUCTS,  
 INC.,

Defendants.

CASE NO. C 06-00244 RMW

1 The Manufacturers make the following disclosure of trial witnesses intended to be called in  
 2 person in accordance with the Court's August 30, 2007 Joint Case Management Order ("August  
 3 30 Order").

4 **A. Introduction**

5 Pursuant to the August 30 Order, Manufacturers list below 30 witnesses for the jury  
 6 portion of the conduct trial. The Manufacturers also list 2 witnesses – Robert Kramer and Paul  
 7 Anderson – whose testimony goes only to prosecution laches and who will therefore not testify  
 8 before the jury. See Part E, below. Rambus asks the Court to impose a limit of 30 total live trial  
 9 witnesses for the Manufacturers, however, since Mr. Kramer and Mr. Anderson will not be called  
 10 in the jury portion of the trial they do not logically count against the witness limits. Thus the  
 11 Manufacturers ask the Court to reject Rambus's request for further limitation.

12 **B. Rambus's and Manufacturers' Common Witnesses**

13 The Manufacturers identify the following common witnesses and provide supplemental  
 14 descriptions of anticipated testimony, in accordance with the August 30 Order.

- 15 1. Anthony Diepenbrock<sup>1</sup>
- 16 2. Joel Karp
- 17 3. Neil Steinberg
- 18 4. Geoff Tate
- 19 5. Lester Vincent
- 20 6. Farhad Tabrizi - In addition to four previous depositions and testimony at
- 21 the FTC, expected to provide testimony regarding the development,
- 22 standardization and commercialization of DDR2, DDR3, GDDR3 and
- 23 GDDR4.
- 24 7. Richard Crisp

25 \_\_\_\_\_  
 26 <sup>1</sup> Rambus seeks to rewrite paragraph 1 of the Court's August 30 Order by deleting Mr.  
 27 Diepenbrock. Mr. Diepenbrock was listed on *both Rambus's and the Manufacturers' initial*  
 28 *August 17 witness lists*, and as a former Rambus employee, has the same status as others listed in  
 paragraph 1 of the August 30 Order. There is no basis to treat Mr. Diepenbrock differently than  
 other former Rambus employees.

**C. Manufacturers' Common Witnesses**

The Manufacturers list the following common witnesses and provide supplemental descriptions of their anticipated trial testimony. (The Manufacturers have reduced this list to 11 from the 12 listed in their August 29 letter in accordance with paragraph of the August 30 Order.) If no supplemental description is provided, the Manufacturers intend to limit the scope of testimony to prior testimony given by the witness.

1. Terry Lee (Micron) – In addition to subjects discussed during his previous deposition, trial and hearing testimony in Rambus-related matters, Mr. Lee is expected to testify as to the continuing lock-in effects of Rambus's conduct and omissions and causes thereof.
2. Brian Shirley (Micron) - In addition to subjects discussed during his previous deposition, trial and hearing testimony in Rambus-related matters, Mr. Shirley is expected to testify as to the continuing lock-in effects of Rambus's conduct and omissions and causes thereof, continuing evolution of DRAMs, and Micron's continuing compliance with JEDEC standards.
3. Charles Donohoe (Samsung)
4. Joe Macri (ATI) - In additional to the subject-matter of hearing testimony at the FTC, expected to provide testimony regarding JEDEC, including the development and standardization of DDR2, DDR3, GDDR3, GDDR4 and GDDR5. Also expected to provide testimony regarding the resultant industry lock-in from adoption of the foregoing standards.
5. Andreas Bechtolsheim (Cisco, formerly Sun)
6. Desi Rhoden - In addition to deposition and testimony at the FTC hearing, expected to testify regarding JEDEC's practices in adopting proposed technology in JEDEC standards including the adoption and content of the JEDEC standards for DDR2, DDR3, GDDR3 and GDDR4. Also expected to testify regarding Rambus's participation in JEDEC and Rambus's descriptions of its technology.
7. Martin Peisel (Infineon)
8. Howard Sussman (formerly NEC)
9. Rich Heye (AMD) - In addition to the subject-matter of deposition and hearing testimony at the FTC, expected to provide testimony regarding lock-in resultant from adoption of the JEDEC SDRAM standards, including DDR2, DDR3, GDDR3 and GDDR4.

10. Mark Kellogg (IBM)

11. Ilan Krashinsky (Hewlett Packard)

**D. Company Specific Witnesses**

The Manufacturers each identify their company witnesses and where required provide supplemental descriptions of their testimony.

1. ***Micron***

Steve Appleton - In addition to subjects discussed during his previous deposition, trial and hearing testimony in Rambus-related matters, Mr. Appleton is expected to testify as to the continuing importance of open standards to the industry and to Micron, the continuing desirability of evolutionary standards, Micron's continuing desire to avoid royalty-bearing technologies, and Micron's reliance on Rambus's conduct and omissions.

Kevin Ryan

David Westergard - In addition to subjects discussed during his previous deposition testimony in Rambus-related matters, Mr. Westergard is expected to testify as to attorneys' fees incurred by Micron and the actions underlying same.

2. ***Hynix***

Dr. K.H. Oh

Jae Park – In addition to testimony provided at trial in the '905 action, expected to testify regarding Hynix's development and commercialization of DDR2, DDR3, GDDR3 and GDDR4; Hynix's continuing commitment to JEDEC and the standardization process; injury to each of the Hynix parties resultant from Rambus's anticompetitive conduct.

D.S. Chung – Expected to testify regarding Hynix's damages, specifically the payment of attorneys fees incurred in defending Rambus's patent claims.

Hynix notes that during the August 29<sup>th</sup> telephonic case management conference the Court indicated that it wished to consider severing, or perhaps deferring until after a liability verdict, determination of the amount antitrust damages composed of attorneys fees claimed by Hynix, Micron and Nanya incurred in defending Rambus's patent claims. Hynix believes severing or deferring the damages determination from the liability determination is appropriate because it will

1 sharpen the issues for jury resolution. Mr. Chung would be called by Hynix only as to the fees  
2 paid by Hynix claimed as antitrust damages.

### 3 **3. Samsung**

4 Jon Kang - Expected to testify to communications between Rambus and Samsung  
5 regarding Rambus' assertions of its intellectual property against Samsung,  
6 including the Rambus Patents; terms of the SDR/DDR License and the Amendment  
7 to the SDR/DDR License dated on or about July 18, 2001.

8 Jung Bae Lee – Expected to testify to Accused Samsung Products made, used, sold,  
9 imported or offered for sale in the United States.

### 10 **4. Nanya and Nanya USA**

11 Kenneth Hurley - In addition to general background information, Mr. Hurley, CEO  
12 of Nanya Technology Corporation U.S.A. ("Nanya U.S.A."), is expected to testify  
13 regarding, among other related matters, Rambus's conduct during and after the  
14 Rambus-Nanya license negotiations, Rambus's non-communication for years after  
15 the negotiations, Nanya U.S.A.'s reliance on Rambus's conduct, and the harm  
16 Nanya U.S.A. will suffer if Rambus is permitted to proceed with its infringement  
17 suit. Mr. Hurley is also expected to testify regarding the importance of selling  
18 JEDEC standardized DRAM. Mr. Hurley will also testify regarding the injury and  
19 damages to Nanya USA as a result of Rambus's anticompetitive conduct, including  
20 incurring attorneys fees and costs to defend this lawsuit, Rambus's market power  
21 and Nanya U.S.A.'s status in the U.S. DRAM market.

22 Jih Lien, Ph.D. - In addition to general background information, Dr. Lien, President  
23 of Nanya Technology Corporation is expected to testify regarding, among other  
24 related matters, Rambus's conduct during and after the Rambus-Nanya license  
25 negotiations, Rambus's non-communication with Nanya for years after the  
26 negotiations, Nanya's reliance on Rambus's conduct, and the harm Nanya will  
27 suffer if Rambus is permitted to proceed with its infringement suit. Dr. Lien is also  
28 expected to testify regarding the design and development of Nanya's DRAM  
products, Nanya's commitment to and reliance on JEDEC standards and JEDEC  
standard setting process. Dr. Lien will also testify regarding the injury and damages  
to Nanya as a result of Rambus's anticompetitive conduct, including incurring  
attorneys fees and costs to defend this lawsuit, Rambus's market power and Nanya's  
status in the Global DRAM market .

Pe-Lin Pai, Ph.D. - In addition to general background information, Dr. Pai, Vice  
President of Marketing and Distribution for Nanya is expected to testify regarding,  
among other related matters, Rambus's non-communication with Nanya for years  
after the 2000 license negotiations initiated by Rambus, Nanya reliance on  
Rambus's conduct, and the prejudice Nanya would suffer if Rambus is permitted to  
proceed with its infringement suit. Dr. Pai is also expected to testify regarding the  
design and sale of Nanya's DRAM products, the importance of selling JEDEC

standardized DRAM, Nanya's commitment to and reliance on JEDEC standards and JEDEC standard setting process. Dr. Pai will also testify regarding the injury and damages to Nanya and Nanya USA as a result of Rambus's anticompetitive conduct, including incurring attorneys fees and costs to defend this lawsuit.

**E. Non-Jury Witnesses**

The Manufacturers list the following witnesses for the prosecution laches claims, triable to the Court.

Paul Anderson (Rambus inside patent counsel)<sup>2</sup>

Robert Kramer (Rambus inside counsel)

DATED: September 5, 2007 THELEN REID BROWN RAYSMAN & STEINER LLP

By /s/  
Kenneth L. Nissly  
Susan van Keulen  
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Hynix Semiconductor America Inc., Hynix  
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Deutschland GmbH

DATED: September 5, 2007 WEIL GOTSHAL & MANGES LLP

By /s/  
Jared Bobrow  
Attorneys for Micron Technology, Inc.  
Micron Semiconductor Products Inc.

<sup>2</sup> Rambus suggests Mr. Anderson should be included in the list of Rambus's and Manufacturers' Common Witnesses. See Rambus's Witness Disclosure Pursuant to the Court's August 30, 2007 Order at 1;8-19. However, this suggestion is not well-taken because Mr. Anderson's testimony goes only to prosecution laches, and thus he should be grouped with Mr. Kramer as a non-jury witness.

1 DATED: September 5, 2007

WEIL GOTSHAL & MANGES LLP

2  
3  
4 By /s/

David Healey  
Attorneys for Samsung Electronics Co., Ltd.  
Samsung Electronics America, Inc.  
Samsung Semiconductor, Inc.  
Samsung Austin Semiconductor, L.P.

5  
6  
7  
8  
9 DATED: September 5, 2007

ORRICK HERRINGTON & SUTCLIFFE

10  
11 By /s/

Vickie L. Feeman  
Craig Kaufman  
Attorneys for Nanya Technology Corporation  
Nanya Technology Corporation U.S.A.

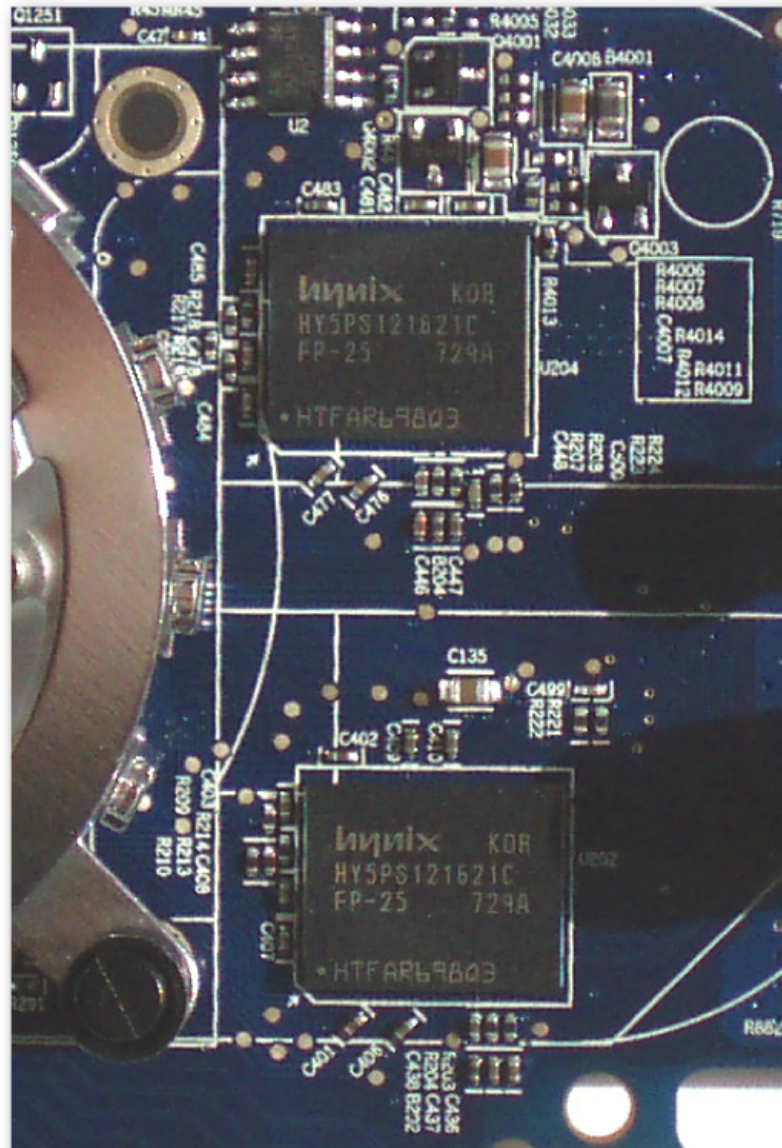
12  
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15 **SV #308478**

# **EXHIBIT B**

# ATI Graphics Card



# DDR2 DRAM On ATI Graphics Card



# **EXHIBIT C**

1 UNITED STATES OF AMERICA  
2 FEDERAL TRADE COMMISSION  
3

4 In the Matter of: )  
5 Rambus, Inc. ) Docket No. 9302  
6 -----)

7

8

9 Monday, June 9, 2003

10 9:30 a.m.

11

12

13 TRIAL VOLUME 25

14 PART 1

15 PUBLIC RECORD

16

17 BEFORE THE HONORABLE STEPHEN J. MCGUIRE

18 Chief Administrative Law Judge

19 Federal Trade Commission

20 600 Pennsylvania Avenue, N.W.

21 Washington, D.C.

22

23

24

25 Reported by: Susanne Bergling, RMR

For The Record, Inc.  
Waldorf, Maryland  
(301) 870-8025

1 Q. Okay. Now, when did you first hear of JEDEC?

2 A. That must have been 1997.

3 Q. And how did you come to hear of JEDEC?

4 A. I was working on an SRAM, call it the DDR SRAM,  
5 the DDR1 SRAM and a DDR2 SRAM, and I was visiting a  
6 company in Japan by the name of Fujitsu, and during --  
7 at some point in the meeting, they disclosed the DDR  
8 DRAM that was being discussed in JEDEC, and that was  
9 the first time I had heard of it.

10 Q. And what was your involvement in JEDEC in  
11 '97-'98?

12 A. Well, I attended the first -- you know,  
13 basically as an engineer, when you hear of some  
14 concepts that you don't agree with, you always think  
15 you could do better, and so we decided to go to a JEDEC  
16 meeting and explain to them some of the ways we thought  
17 the device could be made better.

18 JUDGE MCGUIRE: Who is "we"?

19 THE WITNESS: Myself and another engineer from  
20 Silicon Graphics.

21 BY MR. DAVIS:

22 Q. What was the name of the other engineer?

23 A. Marty Deneroff.

24 Q. Now, what's the period in which you've been  
25 involved in JEDEC?

1           A. I started at that first meeting in '97. It was  
2 the fall of '97.

3           Q. And you have been involved in JEDEC since that  
4 time?

5           A. Yes.

6           Q. What committees of JEDEC have you attended?

7           A. Predominantly the JC-42.3 committees, JC-42.5,  
8 JC-16.1 and .2, and I've attended one or two meetings  
9 in JC-40.

10          Q. Okay. Now, have you ever been a -- had a  
11 chairman or vice-chairman position at JEDEC?

12          A. Yes, I was chairman of the Future DRAM Task  
13 Group, and I am currently the chair of JC-42.3, which  
14 is the DRAM committee.

15          Q. Okay. Now, you mentioned the Future DRAM Task  
16 Group. What was the Future DRAM Task Group?

17          A. That was a group that was formed in 1998, I  
18 believe March of 1998, to focus on the next generation  
19 standard DRAM after DDR out of JEDEC.

20          Q. And you said -- I'm sorry, what was the focus  
21 of the Future DRAM Task Group?

22          A. To come up with the next standard DRAM after  
23 DDR that JEDEC was going to -- going to work on.

24          Q. And this was in 1998?

25          A. This was in 1998.

1           C E R T I F I C A T I O N   O F   R E P O R T E R

2       DOCKET NUMBER:   9302

3       CASE TITLE:    RAMBUS, INC.

4       DATE:   JUNE 9, 2003

5

6               I HEREBY CERTIFY that the transcript contained  
7   herein is a full and accurate transcript of the notes  
8   taken by me at the hearing on the above cause before  
9   the FEDERAL TRADE COMMISSION to the best of my  
10   knowledge and belief.

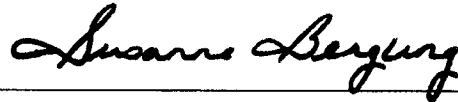
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12                                       DATED:   6/10/03

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14

15



16

SUSANNE BERGLING, RMR

17

18       C E R T I F I C A T I O N   O F   P R O O F R E A D E R

19

20               I HEREBY CERTIFY that I proofread the  
21   transcript for accuracy in spelling, hyphenation,  
22   punctuation and format.

23

24



25

DIANE QUADE

For The Record, Inc.  
Waldorf, Maryland  
(301) 870-8025